

**2011**  
**Equal Employment**  
**Opportunity Training for**  
**Employees**

# **COURSE OBJECTIVE**

The objective of this training is to provide employees with an brief overview of Equal Employment Opportunity (EEO) laws applicable to Federal employees and your rights and responsibilities.

# TOPICS COVERED

- Department of Navy's EEO Policy
- Discrimination
  - EEO Laws & Statutes
  - Bases for Discrimination
  - Your Rights and Responsibilities
- Harassment
  - Non-sexual
  - Sexual
- Discipline
- Reasonable Accommodation
  - Religious
  - Disability
- Alternative Dispute Resolution



# **Department of the Navy's (DON) Policy**

- Equal opportunity and treatment for all DON employees and applicants regardless of race, color, religion, national origin, sex, age, disability (physical and/or mental), or reprisal (prior EEO activity).
- Develop and implement affirmative employment programs.
- Create a workplace free from discriminatory practices, including harassment, sexual and non-sexual.

# DISCRIMINATION

## What is Discrimination?

With regard to federal anti-discrimination law, an adverse action toward, or harassment of, an applicant or employee that is influenced by the individual's membership in a group protected under any of the following EEO statutes:

- Title VII of the Civil Rights Act of 1964 <http://www.eeoc.gov/policy/vii.html>
- Age Discrimination in Employment Act of 1967 <http://www.eeoc.gov/policy/adea.html>
- Rehabilitation Act of 1973 <http://www.eeoc.gov/policy/rehab.html>
- Equal Pay Act of 1963 <http://www.eeoc.gov/policy/epa.html>
- Americans with Disabilities Act (ADA) of 1990
- ADA Amendments Act of 2008
- Title VII of the Civil Right Act of 1991
- Executive Order 13087

I suggest leaving out all the websites and just put the EEOC site at the end of the presentation. I think it makes the slides too busy.

All EEO statutes prohibit **reprisal or retaliation** against individuals **who oppose any practice made unlawful by any of the above statutes or participate in any stage of administrative or judicial proceedings under these statutes.**



# **Equal Pay Act of 1963**

- Prohibits sex-based wage discrimination.
- Mandates equal pay for substantially equal work.
- Defines substantially equal work as similar working conditions with equal skill, effort and responsibility.

# **Title VII of the Civil Rights Act of 1964**

- Prohibits employment discrimination based on race, color, sex, national origin and religion.
- Established the Equal Employment Opportunity Commission (EEOC).
- Gave responsibility to the Civil Service Commission to establish complaint processing regulations.
- Amended to include pregnancy-based discrimination.

# Age Discrimination in Employment Act of 1967 ( ADEA)

- Protects individuals who are **40 years of age or older** from employment discrimination based on age.
- Protects employees and job applicants.
- Applies to employers with 20 or more employees, including state and local governments -- also applies to employment agencies, labor organizations and the Federal government.



# Rehabilitation Act of 1973



Prohibits  
discrimination  
against qualified  
individuals with  
disabilities who  
work in the Federal  
government.

# **Americans with Disabilities Act (ADA) of 1990**

- Requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship.
- In general, an accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

# **ADA Amendments Act of 2008**

- The Act expands the definition of who is a qualified individual with a disability.
- This increases the number of individuals entitled to a reasonable accommodation.
- The ADA Amendments Act went into effect on January 1, 2009.



# **Title VII The Civil Rights Act of 1991**

- Made major changes in Federal laws against employment discrimination.
  - Authorizes compensatory and punitive damages in cases of intentional discrimination.
  - Provides for attorney's fees.
  - Makes jury trials possible.

# **Executive Order 13087**

- Prohibits discrimination based on sexual orientation in the Federal civilian workforce.
- A person's sexual orientation should not be the basis for denial of a job or a promotion.
- No complaint rights under 29 CFR 1614, but may seek assistance in certain circumstances from Merit Systems Protection Board (MSPB), Office of Special Council (OSC), a negotiated grievance and/or an administrative grievance procedure.

# DISCRIMINATION

## Who is Protected?

All individuals are protected under any of the following bases:

- Race  
<http://www.eeoc.gov/types/race.html>
- Color  
<http://www.eeoc.gov/types/race.html>
- Religion  
<http://www.eeoc.gov/types/religion.html>
- Sex  
<http://www.eeoc.gov/types/sex.html>
- National Origin  
<http://www.eeoc.gov/origin/index.html>
- Age <http://www.eeoc.gov/types/age.html>
- Disability  
<http://www.eeoc.gov/types/ada.html>
- Reprisal  
<http://www.eeoc.gov/types/retaliation.html>



# **EEO Statutory Bases**

## ***Race Discrimination***

- Occurs when people are treated differently because they are members of a specific race.
- Cannot make hiring decisions based on stereotypes and assumptions about abilities, traits or the performance of individuals of certain racial groups.
- Cannot deny opportunity to individuals because of marriage to or association with:
  - individuals of a different race
  - an ethnic-based organization
  - attendance/participation in schools or places of worship

# **EEO Statutory Bases**

## ***Race Discrimination (cont.)***

- Did you know:
  - Ethnic slurs, racial jokes, offensive or derogatory comments or other verbal or physical conduct based on an individual's race/color constitutes unlawful harassment if the conduct creates an intimidating, hostile or offensive working environment.



# **EEO Statutory Bases**

## ***Race Discrimination (cont.)***

OPM/DoD recognizes the following ethnic and race categories:

- American Indian or Alaskan Native
- Asian
- Black or African American
- Hispanic or Latino
- Native Hawaiian or other Pacific Islander
- White



# **EEO Statutory Bases**

## ***Color Discrimination***

- Occurs when individuals are treated differently than others because of the color of their skin.
- Can occur in conjunction with race discrimination.
- Can occur in the absence of race discrimination when members of the same race are treated differently because of their skin color.

# **EEO Statutory Bases**

## ***Religious Discrimination***

- Occurs when an employment rule or policy requires a person to violate a fundamental precept of his/her religion or lose an employment opportunity.
- A belief is religious because an individual sincerely holds that belief with the strength of traditional religious views.
- Coverage is not limited to worship, but includes other obligations of church members such as attendance at church-related meetings by a minister.



# **EEO Statutory Bases**

## ***Sex Discrimination***

- There are many different aspects of sex discrimination cases:
  - Disparate treatment cases involve organizational policies that cause men and women to be treated differently.
  - Disparate impact cases involve policies that have a disproportionate adverse impact on persons of one gender.
  - Also discriminatory are written or unwritten employment policies that exclude applicants or employees from employment because of pregnancy, childbirth or related medical conditions.
  - Sexual harassment is a form of sex discrimination.



# **EEO Statutory Bases**

## ***Age Discrimination***

- Occurs when an individual 40 or over is treated unfavorably in terms or conditions of employment.

# **EEO Statutory Bases**

## ***National Origin Discrimination***

- Defined as employment discrimination because of place of origin or because of physical, cultural or linguistic characteristics.
- May also include marriage to or association with persons or a national origin group, membership in or association with an organization identified with or seeking to promote the interests of a national origin group.
- Could include attendance or participation in schools, churches, temples or mosques generally used by persons of a national origin group.
- Or an individual's name or spouse's name that is associated with a national origin group.



# **EEO Statutory Bases**

## ***Disability Discrimination***

- Occurs when an employee or applicant is treated differently on the basis of a disabling condition -or- when an agency fails to make reasonable accommodation for qualified disabled employees/applicants who are able to meet the requirements of the position through reasonable assistance or modification.
- A disabled person is one who has a physical or mental impairment that substantially limits one or more major life activities (i.e., walking, seeing, caring for one's self, performing manual tasks, etc.), has a record of such impairment or is regarded as having such impairment.



# **EEO Statutory Bases**

## ***Reprisal***

- Occurs when an employee suffers restraint, interference, coercion, discrimination OR retaliation for raising an allegation of discrimination OR for representing one who has alleged discrimination OR for acting as an EEO official in processing such complaints.

# **DISCRIMINATION**

## **Examples of Discrimination**

- Interviewing only females because the staff needs a female team member.
- Not selecting an Asian employee because it is too difficult to understand his accent.
- Not providing off-site training and developmental assignments to an employee in a wheelchair because it requires that special accommodations be made for that employee's travel.
- Selecting a 35 year-old employee over a 53 year-old more qualified engineer because the older employee might retire soon.



# DISCRIMINATION

## Actions you can take if you feel you have been discriminated against

Choose from the following options:

- Contact the **EEO and Diversity Office** at (401) 832-1007 within 45 calendar days from the date the alleged discriminatory incident occurred, the effective date of the specific personnel action, or the date the aggrieved person knew or reasonably should have known that it occurred.
- **Negotiated Grievance Procedure:** Contact your local union if you are a bargaining unit member.
- **Office of Special Counsel:** <http://www.osc.gov>
- **Merit Systems Protection Board** if the action is appealable: <http://www.mspb.gov>



# **Employee's Rights and Responsibilities**

- You can file an EEO complaint on any matter that impacts your employment.
- You are not required to go through your chain of command.
- You may remain anonymous during the informal process of your complaint.
- You are entitled to a reasonable amount of official time to prepare/present complaint or meet with EEO officials. You need to check with your supervisor before using official time. Your employer is not obligated to change work schedules, pay overtime, or travel expenses in allowing you to do so.

# DISCRIMINATION

## What about other factors?

**Sexual Orientation, Political Affiliation, and Marital Status** are protected categories outside of the EEO process. If you are alleging discrimination based on the above bases then refer to one of the following avenues of recourse:

- **Administrative Grievance Procedures at your Command**
- **Negotiated Grievance Procedure:** Contact your local union if you are a bargaining unit member.
- **Office of Special Counsel:** <http://www.osc.gov>
- **Merit Systems Protection Board:** Available for allegations of sexual orientation only, not political affiliation or marital status. <http://www.mspb.gov>



# HARASSMENT

## What is Harassment?

A form of employment discrimination that involves **unwelcome** conduct based on race, color, religion, sex, national origin, age, disability, and/or reprisal.

Non-sexual harassment is the number one claim raised in EEO complaints in the government and the Department of the Navy (DON).



# HARASSMENT

## When is harassment unlawful?

Harassment becomes unlawful when:

1. Enduring the offensive conduct becomes a condition of continued employment.
2. The conduct is severe or pervasive and a reasonable person would consider the environment intimidating, hostile, or abusive.
  - “Hostile” or “abusive” is determined by:
    - a. Frequency of discriminatory conduct
    - b. Severity of discriminatory conduct
    - c. Potential impact of behavior on employee
    - d. Unreasonable interference with employee’s work performance
3. The conduct is in retaliation against an individual for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under EEO law; or for opposing employment practices that the employee reasonably believes discriminates against individuals.

# **HARASSMENT**

## **Examples of Harassment**

**Harassing conduct may include but is not limited to:**

- **Epithets**
- **Slurs**
- **Jokes**
- **Name-calling**
- **Obscene gestures or sounds**
- **Obscene, vulgar, or abusive language, notes, or emails**
- **Negative stereotypes**
- **Threatening, intimidating, or hostile acts**
- **Written or graphic material that belittles or shows hostility or dislike toward an individual or group that is placed on walls, bulletin boards, or elsewhere on the employer's premises or circulated in the workplace**



# **HARASSMENT**

What is Sexual Harassment?

A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct sexual in nature.



# SEXUAL HARASSMENT

can be  
verbal, non-verbal, or physical

## Verbal

- Sexual stories
- Questions about a person's sexual experiences or preferences
- Jokes
- Inappropriately commenting on a person's body and/or appearance
- Asking for dates after being told "No"

## Non-Verbal

- Staring at a person
- Showing sexually explicit pictures, cartoons, or other visuals
- Making suggestive gestures
- Sending unwanted notes or other material
- Giving unwanted personal gifts

## Physical

- Touching a person
- Leaning over a person
- Standing too close to a person
- Brushing up against a person
- Kissing
- Caressing
- Pinching

# SEXUAL HARASSMENT

## Two Types

Quid Pro Quo - classic type of sexual harassment in which the harasser threatens to withhold or promises to give employment benefits in exchange for sexual favors.

Hostile Environment - harassing conduct is so severe or pervasive in the workplace that it creates an intimidating, hostile, or offensive work environment for the target of the conduct.



# **SEXUAL HARASSMENT**

## **Quid Pro Quo**

Involves any decision causing a significant change in benefits such as...

- Promotion
- Reassignment
- Work assignment
- Award
- Demotion

# **SEXUAL HARASSMENT**

## **Hostile Work Environment**

Applies when the conduct...

- Interferes with the employee's work performance, or
- Creates an intimidating, hostile, or offensive work environment, or
- In some way affects the employee's employment.

The behavior is **ALWAYS UNWELCOME!**



# **HARASSMENT**

## **Norfolk Naval Shipyard's EEO Anti-Harassment Policy**

**The Shipyard is committed to ensuring that all employees are allowed to contribute to the success of our mission in an environment free of discrimination and harassment.**

**No form of harassment will be condoned in the workplace.**

# HARASSMENT

What to do if you have been harassed  
either sexually or non-sexually...

- Respond promptly. Tell the offender that his or her conduct is unwelcome, is unacceptable, and must **STOP**.
- **DOCUMENT** every incident in writing with details about the other person's behavior and how you responded to it.
- **REPORT** the situation to your supervisor, the alleged harasser's supervisor, the local Union if in a bargaining unit, or the EEO Office.



# **DISCIPLINE**

**Discipline systems vary with the offender's employer; however, the standard of ZERO TOLERANCE is imposed on all personnel associated with federal property and functions.**

<b>Offender:</b>	<b>RESPONSIBLE AUTHORITY:</b>	<b>PLAUSIBLE CLOSURE:</b>
<b>Military member</b>	<b>Military superior</b>	<b>Captain's mast</b>
<b>Civilian employee</b>	<b>Supervisor</b>	<b>Reprimand to removal</b>

# **REASONABLE ACCOMMODATION Religious Accommodation**

An employer is required to reasonably accommodate the religious belief of an employee or prospective employee, unless doing so would impose an undue hardship or would interfere with the efficient accomplishment of the agency's mission.

Examples:

- Adjustments to work schedules
- Voluntary substitutions or swaps
- Modifications of grooming requirements and other workplace practices

Contact your supervisor if you need to request an accommodation based on your religious beliefs.



# **REASONABLE ACCOMMODATION For a Qualified Individual with a Disability**

## **What is Reasonable Accommodation?**

Any change in work environment or way practices are customarily done that would enable a **qualified individual with a disability** to enjoy equal employment opportunities.

The Rehabilitation Act of 1973 requires that federal agencies provide  
reasonable accommodation to qualified individuals with disabilities  
unless doing so would cause undue hardship.

# **REASONABLE ACCOMMODATION For a Qualified Individual with a Disability**

## **Who is a qualified individual with a disability?**

An individual with a disability who is able to perform the **essential functions of the position** with or without an accommodation and who:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the position; or
2. Meets the criteria for appointment under one of the special appointing authorities for individuals with disabilities.



# **REASONABLE ACCOMMODATION**

## **For a Qualified Individual with a Disability**

### **What are “essential functions” of a position?**

Those duties that are so fundamental to the position that the individual can not do the job without being able to perform those duties.

### **When is a job function considered essential?**

A function is essential if:

1. The position exists specifically to perform that function;
2. There are a limited number of other employees who could perform the function if it were assigned to them; or
3. The function is specialized and the incumbent is hired based on his or her ability to perform it.

# **REASONABLE ACCOMMODATION**

## **For a Qualified Individual with a Disability**

### **Examples of Reasonable Accommodations:**

- Making existing facilities accessible
- Job restructuring
- Modifying work schedules
- Acquiring or modifying equipment
- Providing qualified interpreters



# **REASONABLE ACCOMMODATION**

## **For a Qualified Individual with a Disability**

### **How to File a Request:**

The process to request an accommodation is detailed in NAVSHIPYDNORINST 12720.4, Procedure for Providing Reasonable Accommodation.

### **Where to File A Request:**

- individual's first-level supervisor;
- Reasonable Accommodation at (757) 396-2691;
- EEO Office at (396) 396-5114.

# **ALTERNATIVE DISPUTE RESOLUTION**

## **What is Alternative Dispute Resolution (ADR)?**

- ADR is any procedure used in lieu of litigation or a formal administrative process to resolve issues in controversy.
- ADR can be used for complaints alleging discrimination (including harassment) or for non-EEO related matters.



# **ALTERNATIVE DISPUTE RESOLUTION**

## **Benefits of Using ADR:**

- Voluntary
- Speedy
- Non-confrontational
- Confidential
- Participant-led outcome
- Efficient
- Enforceable
- Neutral

# ALTERNATIVE DISPUTE RESOLUTION

## Examples of Common ADR Techniques:

- Arbitration

- Mediation

- Conciliation

- \* Mini-trials

\*DON's preferred method of ADR is  
MEDIATION.

- Partnering

- Facilitation



# **ALTERNATIVE DISPUTE RESOLUTION**

## **Why Choose Mediation?**

- A neutral Mediator facilitates a discussion between the aggrieved party and an appropriate management official.
- Parties explain their concerns, and options for resolution are discussed.
- Mediation focuses on restoring the relationships between parties.
- An agreement is documented in writing when parties reach a MUTUALLY agreeable resolution.

# ALTERNATIVE DISPUTE RESOLUTION

## ADR Resources:

DON ADR website:

<http://www.adr.navy.mil>

To use the ADR process,  
contact the EEO Office at  
(757) 396-5114.



# Question #1

**What is the number one claim raised in EEO complaints in the government and DON?**

- a. Sexual harassment**
- b. Non-sexual harassment**
- c. Pay**
- d. Promotion**

**Answer: b**

**Nonsexual harassment is the leading type of complaint filed through the EEO process, which includes complaints based on race, color, religion, national origin, sex, age, disability, and/or reprisal.**

# **Question #2**

**How many days does an individual have to contact an EEO Counselor to initiate the discrimination complaint process?**

- a. 15**
- b. 30**
- c. 45**
- d. 60**

**Answer: c**

**The aggrieved person must initiate contact with an EEO Official within 45 days of the alleged discrimination occurring.**



# Question #3

**If you feel you have been harassed you should:**

- a. Ignore the problem. Addressing the issue will only escalate problems.**
- b. Respond promptly. Tell the offender that the conduct is unwelcome.**
- c. Document every incident in writing with details.**
- d. Both b and c.**

**Answer: d**

**If you believe that you are a victim of harassment, sexual or non-sexual, it is critical that you take action so the situation can be addressed immediately.**

# **Question #4**

**Where can an employee file a request for reasonable accommodation?**

- a. With the employee's first-level supervisor.**
- b. With the Occupational Health Office.**
- c. With the Disability Program Manager or the EEO and Diversity Office.**
- d. Any of the above.**

**Answer: d**

**A request for reasonable accommodation may be filed with the individual's supervisor, the Occupational Health Office, the Disability Employment Program Manager, or the EEO and Diversity Office.**



# Question #5

**Why is mediation advantageous?**

- a. Ongoing relationships are not considered in mediation.**
- b. Parties reach a mutually agreeable resolution.**
- c. A management official familiar with the parties determines the outcome.**
- d. None of the above.**

**Answer: b**

**Mediation participants discuss options and determine a mutually acceptable resolution to the issues raised by the parties.**

**Thank you for completing the  
2010  
Equal Employment  
Opportunity  
Training For Employees.**

**EEO and Diversity Office**